

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
August 26, 2003 (9:00 a.m.)**

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Mark D. Kinser, Board member, presided. No other Board members were present.

Jennifer Kazzie appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc=Disciplinary Case
Lic=Licensing Application
RF=Recovery Fund Claim
Trades=Tradesmen Application

C=Complainant/Claimant
A=Applicant
R=Respondent/Regulant
W=Witness
Atty = Attorney

Participants

- | | |
|---|--|
| 1. R-2000 Homes
File Number 2002-00842 (Disc) | James Bell – C |
| 2. Harry L. Swindell
t/a H L S Repairs and Additions
File Number 2002-03129 (Disc) | Swindell – R
Carlton Gilchrist – C |
| 3. William L. Madison Jr.
t/a Bill Madison Masonry Contractor
File Number 2003-01500 (Disc) | Madison – R
Joyce Madison - W |
| 4. Howard Kenner
File Number 2003-03532 (Lic) | Kenner – A
Pritchard – A Atty
Jennifer Kenner - W
Nancy Peasley - W |
| 5. Richard Alan Fetterman
File Number 2003-03484 (Lic) | Fetterman – A
Richard L. Fetterman – W |
| 6. Ernest Carter
File Number 2003-03534 (Lic) | Carter – A |

7. Jerome Sanfino Jr.
File Number 2003-03483 (Lic)

Sanfino – A

8. Turnkey Concepts LLC
File Number 2001-03084 (Disc)

David Holland – R
J. Michael Flagg - W
Brian Gentilini - W
Raymond Bowser – C
Monica Osei – C

9. Floor Center Plus Inc.
t/a Carpets Plus of America
File Number 2003-03211 (Lic)

Tariq Ghiassi – A
John McGeehan – A Atty
Lilah Ghiassi - W

DRAFT

The meeting adjourned at 4:10 p.m.

BOARD FOR CONTRACTORS

Mark D. Kinser, Chairman

Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: R-2000 HOMES, LLC, T/A ATLANTIC CUSTOM HOMES, LLC
LICENSE NUMBER 2705-049043**

FILE NUMBER: 2002-00842

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 26, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to R-2000 Homes, LLC, t/a Atlantic Custom Homes, LLC on August 1, 2003. The following individuals participated at the conference: James Bell, Complainant; Jennifer Kazzie, Staff Member; and Mark D. Kinser, Presiding Board Member.

R-2000 Homes, LLC, t/a Atlantic Custom Homes, LLC, nor anyone on their behalf, failed to appear at the IFF.

Summation of Facts

1. On or about September 14, 2001, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Mr. and Mrs. James Bell (the Bells) against Atlantic Custom Homes, LLC.
2. On or about March 7, 2001, Bell entered into a contract with Atlantic Custom Homes, LLC (Atlantic Custom) in the amount of \$145,458.00, to construct a house at 879 Old Poole Road, Brodnax, Virginia. The contract indicated Class A Contractor's license number 2705049043.
3. On July 23, 2003, a review of the licensing records of the Board for Contractors revealed R-2000 Homes, LLC, t/a Atlantic Custom Homes LLC, was issued Class A Contractor's license number 2705049043 on March 12, 1999.
4. The contract specified the work would begin on or about April 16, 2001, with an estimated completion date of July 15, 2001. Schedule "D" of the contract specified "INSTALLATION OF A 27'6"30/36 CUSTOM L-RANCH (1,815 SF) TO BE PLACED ON AN 8" CONCRETE BLOCK, CRAWL-SPACE FOUNDATION WITH BRICK VENEER."
5. In a memorandum dated May 3, 2001, Atlantic Custom informed Bell that the masons would be using 6" concrete block with 4" brick for the perimeter foundation and 8" concrete block for the necessary piers. Bell never received notice of the change in the concrete block size.
6. Atlantic Custom failed to make use of written change orders for the modifications to the original contract.
7. On January 17, 2002, the final inspections were approved and the Certificate of Occupancy was issued.
8. On or about May 16, 2003, Investigator Robert Hansel, the Board's agent, made a written request to Atlantic Custom at the address of record of P.O. Box 186, South Hill, Virginia 23970, requesting a written response and documents regarding a complaint filed with the Board. The Board's agent requested a response be received by May 23, 2003.
9. On or about May 20, 2003, Amanda Potter, Manager for Atlantic Custom, called and informed the Board's agent that she would respond "probably tomorrow by fax."
10. On or about June 10, 2003, the Board's agent made a second written request to Atlantic Custom at the address of record, requesting a written response and documents

regarding a complaint filed with the Board. The Board's agent requested a response be received by June 20, 2003.

11. As of July 23, 2003, Atlantic Custom failed to respond to the Board's agent's requests.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

Failure by Atlantic Custom to use written change orders is misconduct in the practice of contracting in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(13) (Effective January 1, 2003)

Failure by Atlantic Custom to respond to an investigator is in violation of the Board's 2003 Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed.

By: _____

Mark D. Kinser
Presiding IFF Board Member
Board for Contractors
Date: August 26, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-049043 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: HARRY L. SWINDELL, SR., T/A H. L. S. REPAIRS AND ADDITIONS
LICENSE NUMBER 2705-050308**

FILE NUMBER: 2002-03129

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 26, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Harry L. Swindell, Sr., t/a H. L. S. Repairs and Additions on July 18, 2003. The following individuals participated at the conference: Harry L. Swindell, Sr. for H. L. S. Repairs and Additions, Respondent; Carlton Gilchrist, Complainant; Jennifer Kazzie, Staff Member; and Mark D. Kinser, Presiding Board Member.

Summation of Facts

1. On April 22, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Carlton and Ada Gilchrist (the Gilchrists) regarding a contract entered into with H. L. S. Repairs and Additions (HLS).
2. On or about March 29, 2002, Carlton Gilchrist entered into a contract with HLS for renovations to a kitchen and hallway at 4125 First Street, Chesapeake, Virginia 23324.
3. On or about March 30, 2002, the Gilchrists paid Harry Swindell (Swindell) of HLS \$2,500.00. Swindell deducted \$851.92, for extra materials because the Gilchrists would purchase materials, including nails, ply board, cement, 2X4's linoleum, and plaster. On or about April 6, 2002, the Gilchrists paid Swindell \$3,500.00.
4. The contract used by Swindell in the transaction failed to contain the minimum provisions required by the Board's 2001 Regulation, 18 VAC 50-22-260(B)(9), subsections (a) when work is to begin and the estimated completion date, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections,

and zoning, (h) contractor's expiration date, class of license, and classification or specialty services.

5. On or about March 25, 26, and 27, 2002, Swindell and his son, Brian Swindell, performed work at the subject property, which included removing the linoleum flooring from the kitchen and hallway.

6. On or about April 6, 2002, Swindell returned to the subject property, then left, informing the Gilchrists that he would return with his eight-man crew in approximately a half hour. However, neither Swindell nor his crew ever returned to complete the work contracted.

7. The Gilchrists called Swindell approximately ten times that day, leaving several messages on Swindell's answering service, with negative results. On or about April 15, 2002, Brian Swindell returned to the subject property unannounced and picked up tools and left.

8. Sometime after April 15, 2002, the Gilchrists called Swindell and inquired as to why Swindell never returned. Swindell responded that he became sick, was diagnosed with prostate cancer and could not finish the work at that time. However, Swindell assured the Gilchrists that he would get the work done.

9. On or about July 18, 2002, in the Chesapeake General District Court, Gilchrist obtained a \$8,000.00 judgment against Swindell for breach of contract because Swindell failed to complete the work contracted for. No appeal is pending and the time for appeal has lapsed.

10. In a letter dated January 10, 2003, Swindell stated, "I do not, will not and shall not pay the Gilchrist in the amount of the judgment filed against me because I have not had my day in court, and 90% of the work to the Gilchrist's home has been completed."

11. As of January 23, 2003, Swindell failed to satisfy the judgment.

12. As of January 23, 2003, Swindell failed to return to complete the work contracted for, to include the installation of windows, replacement of the floor, and the repair of the windowsills and wall.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Failure by Swindell to use a contract containing the minimum requirements is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(28) (Effective September 1, 2001)

Failure by Swindell to satisfy a judgment obtained by Gilchrist in the General District Court, for the City of Chesapeake, Virginia is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(28). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed, along with revocation of his license.

Count 3: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001)

Failure by Swindel to complete work contracted for is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(15). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed, along with revocation of his license.

Count 4: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Retention of funds by Swindel for which work is either not performed or performed only in part is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(16). Therefore, I recommend a monetary penalty of \$2,500.00 be imposed, along with revocation of his license.

By:

Mark D. Kinser
Presiding IFF Board Member
Board for Contractors
Date: August 26, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-050308 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS**

In Re:

William L Madison Jr, t/a Bill Madison Masonry Contractor
New Kent, Va 23124

File Number 2003-01500
License Number 2705017578

CONSENT ORDER NUMBER: 2004-0059

Respondent William L Madison Jr, t/a Bill Madison Masonry Contractor ("William L Madison Jr") was at all times material to this matter a licensed Class B Contractor in Virginia (No. 2705017578).

As a result of this status, William L Madison Jr recognizes and acknowledges being subject to and bound by the Regulations of the Board for Contractors ("Board"), as well as by all other applicable Virginia laws.

A violation of these Regulations has been reported and investigated. These matters were considered on August 26, 2003 in an Informal Fact Finding Conference ("IFF") pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended. This IFF was held in Richmond, Virginia and was attended by William L. Madison, Jr. and Joyce Madison. Board Member Mark D. Kinser presided at the IFF.

The Board's duly designated representative has found sufficient evidence to believe that:

Background

On November 22, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received information from Dave Duffy, Building Official for the County of Goochland Department of Building Inspection, regarding a conviction against

William L. Madison Jr. (Madison), t/a Bill Madison Masonry Contractor for building code violations at 2235 Anmar Drive, Goochland, Virginia.

On February 18, 2003, the licensing records of the Board for Contractors were reviewed, and revealed William L. Madison Jr., t/a Bill Madison Masonry Contractor, was issued Class B Contractor's license number 2705017578 on November 13, 1992, as a sole proprietorship.

Summation of Facts

1. On April 4, 2002, in the Circuit Court of Goochland County, Madison was convicted of a misdemeanor for a violation of the building code. There is no appeal pending and the time for appeal has expired.
2. Madison failed to inform the Board of the conviction in writing within thirty (30) days.

The Board and William L Madison Jr, as evidenced by the signatures affixed below, enter into this Consent Order. William L Madison Jr knowingly and voluntarily waives any further proceedings in this matter under Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

Further, by signing this Consent Order, William L Madison Jr acknowledges an understanding of the charges. William L Madison Jr hereby admits to the violation(s) of the Board's Regulations and consents to the following term(s) by the Board:

Count 1: 18 VAC 50-22-260(B)(22) (Effective September 1, 2001)

Madison's actions of being convicted of any felony or of any misdemeanor is a violation of Board Regulation 18 VAC 50-22-260(B)(22). Therefore, I recommend no sanction be imposed since Madison was previously fined by the court for this conviction.

Count 2: 18 VAC 50-22-260(B)(23) (Effective September 1, 2001)

Madison's failure to inform the Board of the conviction in writing within thirty (30) days is a violation of Board Regulation 18 VAC 50-22-260(B)(23). Therefore, I recommend a monetary penalty of \$250.00 be imposed.

The above monetary penalties, costs or sanctions are to be paid/performed within thirty days of the effective date of this consent order. William L Madison Jr acknowledges the monetary penalty and costs as a debt to the Commonwealth and agrees that in the event of a default, or the return of a check for insufficient funds, William L Madison Jr will be responsible for a penalty fee of 10% and interest at the underpayment rate prescribed in Section 58.1-15 of the 1950 Code of Virginia, as amended, and for all reasonable administrative costs, collection fees, or attorney's fees incurred in the collection of whatever funds are due.

William L Madison Jr acknowledges that failure to pay the penalty, the costs, or to comply with all terms of this Order within the specified time period, shall result in

the automatic suspension of William L Madison Jr's license until such time as there is compliance with all terms of this Order. William L Madison Jr understands the right to have this automatic suspension considered in an IFF pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended, but knowingly and voluntarily waives any rights to the proceeding and hereby waives any further proceedings under the Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

The effective date of this Order shall be the date of execution by the Board.

SEEN AND AGREED TO:

William L Madison Jr
t/a Bill Madison Masonry Contractor

Date

Printed Name and Title of Person Signing on behalf of Entity

CITY/COUNTY OF
COMMONWEALTH OF VIRGINIA

Sworn and subscribed before me this _____ day of _____, 2003.

Notary Public

My Commission Expires: _____

SO ORDERED:

Entered this _____ day of _____, 2003.

Board for Contractors

BY: _____
Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of the Records

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**IN RE: HOWARD D. KENNER
APPLICATION**

FILE NUMBER: 2003-03532

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 26, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Howard D. Kenner (Kenner) on August 18, 2003. The following individuals participated at the conference: Howard D. Kenner, Applicant; Robert Pritchard, Esquire, Attorney for Applicant; Jennifer Kenner, Witness; Nancy Peasley, Witness; Jennifer Kazzie, Staff Member; and Mark D. Kinser, presiding Board Member.

Summation of Facts

1. Kenner applied for a Tradesman license on or about May 22, 2003, and disclosed criminal conviction(s).
2. On or about June 21, 2003, the Board's licensing staff provided the Regulatory Programs Division Application Review Informal Fact Finding Conference Referral Memorandum, which states the reasons the license was not issued.
3. During the IFF, Kenner made comments relative to the possibility that unless he stays in counseling and within his "boundaries" that "it" (the offense) could happen again.

Prior Criminal Convictions

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

Kenner was convicted of Aggravated Sexual Battery, a Felony, and Revocation of Suspended Sentence and Probation, a Felony.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. Kenner's conviction did involve his contact with a child who was a friend of his daughter's. Once granted a license, there may be situations, whether commercial or even residential, where children may be present. Although this was a one time incident, I am not convinced that Kenner may not be tempted to commit the offense again.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

As previously stated, I do foresee the possibility of children present at construction sites, whether commercial or residential, and therefore, opportunity to engage in further criminal activity of the same type could re-occur.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

Although I feel Kenner can perform the specific tasks of the occupation, there are no guarantees children would not be present on the job site.

5. The extent and nature of the person's past criminal activity;

Kenner was convicted of Aggravated Sexual Battery, a Felony, and Revocation of Suspended Sentence and Probation, a Felony.

6. The age of the person at the time of the commission of the crime;

Kenner was approximately thirty-eight (38) years old at the time of the initial crime.

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

The last offense, which resulted in Kenner's Felony Revocation of Suspended Sentence and Probation conviction, occurred on or about August 8, 2000.

8. The conduct and work activity of the person prior to and following the criminal activity;
and

During the IFF, Kenner stated that at the time of the 1996 offense, he was out of work.

In a letter dated September 26, 2002, Kent N. Davis, CUSA, PHR, Director of Health, Safety and Human Resources, states the following: "This letter is to verify that Mr. Kenner was employed at ARC Electric, Incorporated from 13 August, 1997 to 02 August, 2000 as an electrical apprentice. During his employment Mr. Kenner demonstrated his experience and knowledge of the electrical trade. His specific duties included wiring electrical systems, detail work involving processors and controls, installation of raceways, installation of transformers and switchgear. Mr. Kenner also performed repairs and maintenance of electrical raceways, devices and lighting. Through his demonstrated knowledge and expertise Mr. Kenner gained the respect of his supervisors and peers. He has this company's recommendation for the Virginia Electrical Journeyman Licensure."

In a letter dated May 19, 2003, Eric DeBose, Service Manager, L. E. Balance Electrical Service, Inc., states the following: "This letter is to verify that Howard Kenner has been in our employment from October 6, 2000 to present. His specific duties include the installation and maintenance of commercial and industrial electrical systems. Howard Kenner has always performed his duties in a professional manner. Therefore, we recommend that Howard receive his Virginia Electrical Journeyman's License."

During the IFF, Kenner stated that he is currently employed with L. E. Balance Electrical Service, Inc. and will have been with them three years in October.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

Kenner was not incarcerated for his convictions.

During the IFF, Kenner stated that he attends group counseling every Monday night and provides a quarterly reporting to the state police as required. He has completed other various programs and complied with all rules and conditions of his probation as evidenced by an April 5, 2003 letter from John S. Williams, Kenner's probation officer.

Conclusion and Recommendation

Based upon the record, including the information obtained from the Central Criminal Records Exchange, and in consideration of the criteria outlined in § 54.1-204.B, I recommend Kenner's application be denied.

By: _____

Mark D. Kinser
Presiding IFF Board Member
Board for Contractors

Date: August 26, 2003

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**IN RE: RICHARD ALLEN FETTERMAN
APPLICATION**

FILE NUMBER: 2003-03484

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 26, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Richard Allen Fetterman (Fetterman) on July 25, 2003. The following individuals participated at the conference: Richard Allen Fetterman, Applicant; Richard L. Fetterman, Witness; Jennifer Kazzie, Staff Member; and Mark D. Kinser, presiding Board Member.

Summation of Facts

1. Fetterman applied for a Tradesman license on or about May 5, 2003, and disclosed criminal conviction(s).
2. On or about June 10, 2003, the Board's licensing staff provided the Regulatory Programs Division Application Review Informal Fact Finding Conference Referral Memorandum, which states the reasons the license was not issued.

Prior Criminal Convictions

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

Fetterman was convicted of Larceny, a Felony; Possess a Firearm by a Convicted Felon, a Felony; Possession of Marijuana, a Misdemeanor; Driving While Intoxicated, a Third or Subsequent Offense, a Felony; and Driving on a Suspended Operator's License, a Misdemeanor.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. Fetterman's last conviction was over four (4) years ago, and he has had no further criminal charges or convictions since that time. Based upon his testimony and credibility at the IFF, it does not appear that Fetterman is a danger to the public.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

Based upon the above information, it does not appear that granting Fetterman a license will encourage any criminal activity. He has already been working with contractors doing electrical work for many years. Fetterman is currently on probation until December, 2004, and has complied with all of the terms required during his probation period.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

Due to the age of the crimes and Fetterman's actions since that time, I do not see any significant relationship of the crime to his fitness to engage in licensed activity.

5. The extent and nature of the person's past criminal activity;

Fetterman was convicted of Larceny, a Felony; Possess a Firearm by a Convicted Felon, a Felony; Possession of Marijuana, a Misdemeanor; Driving While Intoxicated, a Third or Subsequent Offense, a Felony; and Driving on a Suspended Operator's License, a Misdemeanor.

6. The age of the person at the time of the commission of the crime;

Fetterman was approximately eighteen (18) years old at the time of the initial crime.

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

The last offenses, which resulted in Fetterman's Felony Driving While Intoxicated, a Third or Subsequent Offense conviction and Fetterman's Misdemeanor Driving on a Suspended Operator's License conviction, occurred on or about July 2, 1999.

8. The conduct and work activity of the person prior to and following the criminal activity;
and

During the IFF, Fetterman stated he performed commercial and residential electrical work prior to his conviction and he currently works full time for Newcomb Electrical & Mechanical and part time for his father who is a licensed contractor.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

Fetterman provided certificates for completion of Substance Abuse Education program; Life Skills Educational program and G.E.D while incarcerated. Additionally, Fetterman provided six favorable letters of reference regarding his excellent abilities as an electrician.

Conclusion and Recommendation

Based upon the record, including the information obtained from the Central Criminal Records Exchange, and in consideration of the criteria outlined in § 54.1-204.B, I recommend Fetterman's application be approved.

By: _____

Mark D. Kinser
Presiding IFF Board Member
Board for Contractors

Date: August 26, 2003

COMMONWEALTH OF VIRGINIA

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

IN RE: ERNEST W. CARTER, JR.
T/A E. W. CARTER GENERAL CONTRACTOR
APPLICATION

FILE NUMBER: 2003-03534

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 26, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Ernest W. Carter, Jr., t/a E. W. Carter General Contractor (Carter) on August 13, 2003. The following individuals participated at the conference: Ernest W. Carter, Jr., Applicant; Jennifer Kazzie, Staff Member; and Mark D. Kinser, presiding Board Member.

Summation of Facts

1. Carter applied for a Class B Contractor's license on or about April 8, 2003, and disclosed criminal conviction(s).
2. On or about June 23, 2003, the Board's licensing staff provided the Regulatory Programs Division Application Review Informal Fact Finding Conference Referral Memorandum, which states the reasons the license was not issued.
3. During the IFF, Carter showed great remorse for his action that led to his conviction and has taken the appropriate steps to better control his anger should future domestic events occur.

Prior Criminal Convictions

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

Carter was convicted of Assault & Battery – Family or Household Member, a Misdemeanor.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. It does not appear that Carter is a danger to the public.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

It does not appear that granting Carter a license will encourage any further criminal activity.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

I do not see any significant relationship of the crime to Carter's fitness to engage in licensed activity.

5. The extent and nature of the person's past criminal activity;

Carter was convicted of Assault & Battery – Family or Household Member, a Misdemeanor.

6. The age of the person at the time of the commission of the crime;

Carter was approximately fifty-two (52) years old at the time of the crime.

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

The offense, which resulted in Carter's Misdemeanor Assault & Battery – Family Member conviction, occurred on or about December 18, 2001.

8. The conduct and work activity of the person prior to and following the criminal activity;
and

During the IFF, Carter stated he was in the real estate business for over twenty (20) years and continues to work as a real estate licensee. Carter also stated he holds a Lead Supervisor license.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

Carter was not incarcerated for his conviction. However, Carter successfully completed 18 sessions of the 18-week Men's Domestic Violence Intervention Program that began on March 27, 2002, and ended on July 24, 2002 as ordered by the Court.

Conclusion and Recommendation

Based upon the record, including the information obtained from the Central Criminal Records Exchange, and in consideration of the criteria outlined in § 54.1-204.B, I recommend Carter's application be approved.

By: _____

Mark D. Kinser
Presiding IFF Board Member
Board for Contractors

Date: August 26, 2003

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**IN RE: JEROME FRANCIS SANFINO, JR.
APPLICATION**

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 26, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Jerome Francis Sanfino, Jr. (Sanfino) on July 25, 2003. The following individuals participated at the conference: Jerome Francis Sanfino, Jr., Applicant; Jennifer Kazzie, Staff Member; and Mark D. Kinser, presiding Board Member.

Summation of Facts

1. Sanfino applied for a Tradesman license on or about April 29, 2003, and disclosed criminal conviction(s).
2. On or about June 10, 2003, the Board's licensing staff provided the Regulatory Programs Division Application Review Informal Fact Finding Conference Referral Memorandum, which states the reasons the license was not issued.
3. During the IFF, Sanfino presented himself well and had remorse for his past criminal activity and now seems to be on the path to a successful career.

Prior Criminal Convictions

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

Sanfino was convicted of Assault & Battery – Family Member, a Misdemeanor; Trespassing, a Misdemeanor; Destruction of Property, Monument, a Misdemeanor; and Profane, Threatening Language Over Public Airway, a Misdemeanor.

In his application, Sanfino states that all charges are within a six (6) month time period, involving domestic issues with a former girlfriend.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. It does not appear that Sanfino is a danger to the public.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

It does not appear that granting Sanfino a license will encourage any further criminal activity.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

I do not see any significant relationship of the crime to Sanfino's fitness to engage in licensed activity.

5. The extent and nature of the person's past criminal activity;

Sanfino was convicted of Assault & Battery – Family Member, a Misdemeanor; Trespassing, a Misdemeanor; Destruction of Property, Monument, a Misdemeanor; and Profane, Threatening Language Over Public Airway, a Misdemeanor.

6. The age of the person at the time of the commission of the crime;

Sanfino was approximately thirty-five (35) years old at the time of the initial crime.

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

The last offense, which resulted in Sanfino's Misdemeanor Profane, Threatening Language Over Public Airway conviction, occurred on or about June 28, 2000.

8. The conduct and work activity of the person prior to and following the criminal activity; and

During the IFF, Sanfino stated he joined the Marine Corp. after high school and has performed electrical work during and after his service with the Marine Corp. Sanfino has been employed with Global Stone Chemstone since June, 2002. Upon being promoted, Global Stone has encouraged Sanfino to obtain his journeyman electrician's license in order to become state certified as a "mine electrician."

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

Sanfino testified that he attended a course in anger management. By letter dated August 22, 2003, Mark A. Georgiana, Operations Manager, Global Stone Chemstone, states that Sanfino "has proven to be a very dependable, dedicated, and well skilled electrician."

Conclusion and Recommendation

Based upon the record, including the information obtained from the Central Criminal Records Exchange, and in consideration of the criteria outlined in § 54.1-204.B, I recommend Sanfino's application be approved.

By: _____

Mark D. Kinser
Presiding IFF Board Member
Board for Contractors

Date: August 26, 2003

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**RE: TURNKEY CONCEPTS, LLC
LICENSE NUMBER 2705 048291**

FILE NUMBER: 2001-03084

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 26, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Turnkey Concepts, LLC (Turnkey) on May 29, 2003. The following individuals participated at the conference: David Holland, on behalf of Turnkey; J. Michael Flagg, Witness; Brian Gentilini, Witness; Raymond Bowser, Complainant; Monica Osei, Complainant; Jennifer Kazzie, Staff Member; and Mark D. Kinser, presiding Board Member.

Background

On or about June 26, 2000, Raymond Bowser (Bowser) and Monica Osei (Osei) entered into a contract with Turnkey Concepts LLC (Turnkey), in the amount of \$195,500.00, to build a new construction home at Lot 50 Doral Place, Mechanicsville, Virginia.

Summation of Facts

1. Osei submitted a drainage complaint to the Hanover County Department of Public Works. On or about January 23, 2001, William R. Hardman (Hardman), Hanover County Department of Public Works, inspected the property at 9439 Doral Place, Mechanicsville, Virginia. At the time of inspection, there was no standing water in the right rear of the backyard. However, it was apparent to Hardman that there had been standing water, due to the deposition of sediment in that area.
2. On or about January 26, 2001, Hardman sent Turnkey Concepts LLC a letter regarding the drainage complaint. In the letter, Hardman stated, "According to the Lot Grading Section of the Hanover County Drainage Design Manual, it is the builder's responsibility to grade the lot to drain to lower elevations off the lot or drainage structures on the lot. The lot should be graded to a minimum of 1-% fall." Hardman requested Turnkey Concepts LLC contact him regarding a plan to correct the problem.
3. As of November 7, 2001, Turnkey Concepts LLC failed to contact Hardman. As of May 15, 2002, Turnkey Concepts LLC failed to make any adjustments to comply with the grading

requirements. As of October 4, 2002, Turnkey Concepts LLC failed to grade the right rear yard to meet the minimum of 1-% fall as specified in the Lot Grading Section of the Hanover County Drainage Design Manual.

4. During the IFF, Osei testified that a \$1,500.00 judgment was obtained against Turnkey Concepts, LLC for negligence regarding the grading.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

Turnkey's failure to grade the right rear yard to meet the minimum of 1-% fall as specified in the Lot Grading Section of the Hanover County Drainage Design Manual is a violation of Board Regulation 18 VAC 50-22-260.B (6). Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

By:

Mark D. Kinser
Presiding IFF Board Member
Board for Contractors
Date: August 26, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 048291 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**IN RE: FLOOR CENTER PLUS, INC.
T/A CARPETS PLUS OF AMERICA
APPLICATION**

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on August 26, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Floor Center Plus, Inc., t/a Carpets Plus of America on July 21, 2003. The following individuals participated at the conference: Tariq Ghiassi, on behalf of Floor Center Plus, Inc., t/a Carpets Plus of America, Applicant; John P. McGeehan, Attorney for Applicant; Lilah Ghiassi, Witness; Jennifer Kazzie, Staff Member; and Mark D. Kinser, presiding Board Member.

Summation of Facts

1. Tariq Ghiassi (Ghiassi) applied for a Class C Contractor's license on or about August 14, 2002, and disclosed criminal conviction(s).
2. On or about May 23, 2003, the Board's licensing staff provided the Regulatory Programs Division Application Review Informal Fact Finding Conference Referral Memorandum, which states the reasons the license was not issued.
3. During the IFF, Ghiassi stated that the criminal conviction was a result of an unsolicited purchase of stolen building materials, unbeknownst to him. He expressed remorse for his involvement in criminal activity. He has paid his dues to society and is on the correct path for a successful career.

Prior Criminal Convictions

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

Ghiassi was convicted of Accessory After the Fact in Felony, a Misdemeanor, and Petit Larceny, a Misdemeanor.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. It does not appear that Ghiassi is a danger to the public.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

Based upon the information, it does not appear that granting Ghiassi a license will encourage any criminal activity.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

I do not see any significant relationship of the crime to Ghiassi's fitness to engage in licensed activity.

5. The extent and nature of the person's past criminal activity;

Ghiassi was convicted of Accessory After the Fact in Felony, a Misdemeanor, and Petit Larceny, a Misdemeanor.

6. The age of the person at the time of the commission of the crime;

Ghiassi was approximately twenty-eight (28) years old at the time of the crime.

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

The last offenses, which resulted in Ghiassi's Misdemeanor Accessory After the Fact in Felony conviction and Ghiassi's Misdemeanor Petit Larceny conviction, occurred on or about September 24, 2001.

8. The conduct and work activity of the person prior to and following the criminal activity;
and

During the IFF, Ghiassi stated he was in the flooring business for thirteen (13) years prior to his conviction and he has continued to work in the same business.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

Ghiassi successfully completed four (4) months of work release. Additionally, he submitted three letters of recommendation from satisfied customers.

Conclusion and Recommendation

Based upon the record, including the information obtained from the Central Criminal Records Exchange, and in consideration of the criteria outlined in § 54.1-204.B, I recommend Floor Center Plus, Inc.'s application be approved.

By: _____

Mark D. Kinser
Presiding IFF Board Member
Board for Contractors

Date: August 26, 2003